

## IN THE UNITED STATES DISTRICT COURT

## FOR THE EASTERN DISTRICT OF CALIFORNIA

MONTERIO TYRONE PINCKNEY,

Petitioner,

No. CIV S-05-0144 FCD GGH P

vs.

A. K. SCRIBNER, Warden,

Respondent.<sup>1</sup>ORDER

By stipulation and order, filed May 27, 2005, this case was stayed pending exhaustion of state court remedies as to certain of petitioner's claims. Petitioner, who proceeds with appointed counsel, has now noticed a motion to lift the stay for hearing, averring that all of petitioner's state court remedies have been exhausted. Petitioner has submitted as Exhibit A to the motion, a proposed amended petition setting forth all of petitioner's exhausted claims, which petitioner's counsel intends to file upon the lifting of a stay in this matter. The order, signed by the district judge, staying this matter, set forth that a joint scheduling statement (which had been ordered by the undersigned on March 11, 2005) would be filed within 30 days of the lifting of the stay in this matter.

<sup>1</sup> Pursuant to petitioner's request, under Fed. R. Civ. P. 21, and notification of his transfer to CSP-Corcoran, the name of the warden of that institution is substituted in as respondent. See Notice of Motion & Motion to Lift Stay, n. 1.

1 In lieu of the prior joint scheduling statement ordered, and upon review of the  
2 motion and proposed amended petition, the court now issues the following ORDERS:

3 1. The stay in this matter is LIFTED, and the June 22, 2006 motion to lift the stay  
4 having been GRANTED, the hearing, therein set for August 3, 2006, is VACATED.

5 2. The proposed amended petition, Exhibit A to petitioner's motion to lift the stay  
6 is deemed FILED as of the date of this order, and the Clerk of the Court is directed to docket the  
7 amended petition as filed on this date;

8 3. The Clerk of the Court is also directed to substitute the name of A. K. Scribner,  
9 Warden, as respondent in this case in the court's docket;

10 4. Petitioner must file any supplemental memorandum of points and authorities to  
11 the amended petition within 30 days of the date of this order;

12 5. Respondent must file a response in the form of an answer or a motion to  
13 dismiss within 30 days of the date of service of any supplemental memorandum by petitioner, or  
14 expiration of the time therefore;

15 6. Petitioner must file, as appropriate, within 30 days thereafter, an opposition or  
16 a reply (traverse);

17 7. Should respondent file an answer, if petitioner deems it necessary, any motion  
18 for an evidentiary hearing must be filed at the earliest opportunity; should petitioner so move,  
19 respondent will have 30 days to file any opposition, and petitioner, thereafter, will have 15 days  
20 to file any reply.

21 DATED: 7/3/06

22 /s/ Gregory G. Hollows

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24 GREGORY G. HOLLOWES  
25 UNITED STATES MAGISTRATE JUDGE

26 GGH:009  
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